



Attorney Docket No. 1614.1107

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Hisashige ANDO

Application No.: 09/746,068

Group Art Unit: 2183

Confirmation No.: 1994

Filed: December 26, 2000

Examiner: Daniel H. Pan

PETITION REQUESTING WITHDRAWAL OF
RESTRICTION REQUIREMENT UNDER 37 C.F.R. § 1.144

For: INFORMATION-PROCESSING DEVICE WITH TRANSACTION PROCESSOR FOR EXECUTING SUBSET OF INSTRUCTION SET WHERE IF TRANSACTION PROCESSOR CANNOT EFFICIENTLY EXECUTE THE INSTRUCTION IT IS SENT TO GENERAL-PURPOSE PROCESSOR VIA INTERRUPT

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Commissioner for Patents
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Alexandria, VA 22313-1450

STATEMENT OF THE FACTS:

On July 5, 2007, an Election/Restriction was mailed in the above mentioned application in which the Examiner asserted that "Inventions I [allegedly claims 1-8] and II [allegedly claims 9-16] are related as subcombinations disclosed as useable together in a single combination" (page 2, lines 18-19).

INTERVIEW SUMMARIES:

Applicants respectfully submit the following interview summaries, as also submitted concurrently herewith in the Response to Restriction Requirement, containing the substance of the telephone interviews conducted on July 18, 2007 and August 7, 2007, respectively:

- I) On July 18, 2007, representatives for the Applicant contacted the Examiner to

request reconsideration of the Restriction Requirement. The Examiner, via a telephone interview on July 18, 2007, acknowledged that claims 1 and 9, the independent claims corresponding to Groups 1 and 2 were related and overlapped in scope. Specifically, the Examiner acknowledged that the first and third features of claims 1 and 9 were similar.

- II) On July 18, 2007, in response to the request for reconsideration of the restriction requirement, the Examiner refused to withdraw the restriction requirement.
- III) On August 7, 2007, the Supervisory Examiner refused to withdraw the restriction requirement in response to an oral request for reconsideration.

Thus, the status of the restriction requirement is final.

REMARKS:

The Election/Restriction, at page 2-3, asserts:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they **do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately useable**. In the instant case, **subcombination II has separate utility such as a system which does not have the execution of part of the instruction set corresponding to the specific process**. See MPEP §806.05(d).

(emphasis added)

Claim 1, of alleged invention I, recites: "**a second processor** configured as hardware implementation to execute a portion or entirety of the same instruction set that the first processor executes, said second processor including a plurality of program counters for executing a plurality of processes simultaneously so as **to execute a part of said instruction set corresponding to the specific process** more efficiently than said first processor."

The Election/Restriction asserts that claim 9, is directed to Invention II. Claim 9 recites, in part, "**said second processor** including a plurality of program counters for **executing multiples of specific processes** concurrently so as to achieve more efficient execution than said first processor, **wherein the specific process is assigned to said second processor for execution by the second processor**."

Accordingly, there appears to be no basis for the Election/Restriction's assertion that "subcombination II ... does not have the execution of part of the instruction set corresponding to the specific process," because claim 9 recites "wherein the specific process is assigned to said second processor for execution by the second processor."

The Election/Restriction asserts that claims 1 and 9 belong to inventions I and II, respectively, however, both claims 1 and 9 recite "wherein **the specific process is assigned to said second processor for execution by the second processor.**" That is, in both alleged subcombinations "the specific process is assigned to said second processor for execution by the second processor."

Accordingly, Applicants respectfully submit that the Election/Restriction fails to meet the requirements under MPEP § 806.05(d) because the Election/Restriction has failed to assert any reasoning as to (1) why the subcombinations do not overlap in scope and (2) why the subcombinations are not obvious variants. Furthermore, as discussed above, the Election/Restriction fails to show that at least one subcombination is separately useable. Accordingly, withdrawal of the Election/Restriction is respectfully requested.

Furthermore, MPEP §803 recites:

If the search and examination of **>all the claims in an<
application can be made without serious burden, the examiner
must examine *>them< on the merits, even though **>they
include< claims to independent or distinct inventions.

Applicants respectfully submit that it would not be a serious burden on the Examiner to examine all of the claims in the application because of the similarities (characteristics in common) between the alleged groups.

Serial No. 09/746,068

Attorney Docket No. 1614.1107

CONCLUSION

If any further fees are required in connection with the filing of this Petition, please charge our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: October 5, 2007

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